



Office of the Attorney General

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March 8, 2023

BY E-MAIL AND CERTIFIED MAIL

The Honorable Deb Haaland
Secretary
United States Department of the Interior
1849 C Street, NW
Washington, DC 20240
exsec@ios.doi.gov

Martha Williams
Director
United States Fish and Wildlife Service
1849 C Street, NW.
Washington, DC 20240
Martha_Williams@fws.gov

RE: Sixty Day Notice of Intent to Sue

Dear Secretary Haaland and Director Williams:

Last year the State of Wyoming filed a *Petition to Establish the Greater Yellowstone Ecosystem (GYE) Grizzly Bear (Ursus arctos horribilis) Distinct Population Segment (DPS) and Remove the GYE Grizzly Bear DPS from the Federal List of Endangered and Threatened Species* (petition to delist) with the Department of the Interior and the United States Fish and Wildlife Service. The Service has acknowledged that it received Wyoming's petition to delist on January 21, 2022.¹

Under 16 U.S.C. § 1533(b)(3)(B), the Service was required to make a final determination on the merits of the petition to delist within twelve months after receiving the petition. With respect to the twelve month deadline, the Service has no discretion to delay action beyond the deadline. The twelve month deadline in § 1533(b)(3)(B) "is a hard deadline calculated from the date of the petition filing," not from the date of a positive initial finding on the petition. *Friends of Animals v. Ashe*, 808 F.3d 900, 902 (D.C. Cir. 2015); *see also Biodiversity Legal Found. v. Badgley*, 309 F.3d 1166, 1175 (9th Cir. 2002) (Explaining that § 1533(b)(3)(B) "imposes a firm twelve-month deadline" on the Service to make a final determination on the merits of a petition.).

¹ See (<https://ecos.fws.gov/ecp/report/table/petitions-received.html>) (search "Wyoming").

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The twelve month deadline for the Service to make a final determination on Wyoming's petition to delist was January 21, 2023. As of the date of this letter, the Service has not made a final determination on the petition.

Therefore, as required by the citizen suit provision in 16 U.S.C. § 1540(g)(2)(C), Wyoming hereby provides notice that the Service (as the designee of the Secretary of the Interior) has failed to perform a non-discretionary duty under 16 U.S.C. § 1533(b)(3)(B) because it has not made a final determination on Wyoming's petition to delist within the time frame prescribed in § 1533(b)(3)(B). If the Service does not make a final determination on the petition within sixty days of the receipt of this letter, Wyoming will file suit to seek a court order compelling the Service to do so.

Please contact Brian Nesvik, the Director of the Wyoming Game and Fish Department, at (307) 777-4501 if you wish to discuss this matter further.

Sincerely,



Bridget Hill
Attorney General



Jay Jerde
Special Assistant Attorney General